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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: JUUL LABS, INC., MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

Case No. 19-md-02913-WHO

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
PROPOSED AGENDA**

This Document Relates to:

ALL ACTIONS

Pursuant to Civil Local Rule 16-10(d) and the Court’s February 19, 2021 Minute Order (ECF No. 1441), counsel for Defendants Juul Labs, Inc. (“JLI”), Altria,¹ Director Defendants,² E-Liquid Defendants,³ Retailer Defendants,⁴ and Distributor Defendants⁵ (collectively “Defendants”), and Plaintiffs’ Co-Lead Counsel (“Plaintiffs”) (collectively referred to herein as

¹ “Altria” refers to Altria Group, Inc., and the Altria-affiliated entities named in Plaintiffs’ Consolidated Class Action Complaint and Consolidated Master Complaint (collectively, “Complaints”), *see* ECF Nos. 387, 388.

² “Director Defendants” refers to Messrs. James Monsees, Adam Bowen, Nicholas Pritzker, Hoyoung Huh, and Riaz Valani.

³ “E-Liquid Defendants” refers to Mother Murphy’s Labs, Inc., Alternative Ingredients, Inc., Tobacco Technology, Inc., and Eliquitech, Inc.

⁴ “Retailer Defendants” refers to Chevron Corporation, Circle K Stores, Inc., Speedway LLC, 7-Eleven, Inc., Walmart, and Walgreen Co.

⁵ “Distributor Defendants” refers to McLane Company, Inc., Eby-Brown Company, LLC, and Core-Mark Holding Company, Inc.

the “Parties”) respectfully provide this Joint Case Management Statement in advance of the Further Case Management Conference scheduled for March 26, 2021.

I. PARTICIPANT INFORMATION

The conference will proceed via Zoom, and the Parties will not appear in person. Anyone who wishes to attend the conference must log in using the information available at: <https://www.cand.uscourts.gov/judges/orrick-william-h-who/>.

II. ISSUES TO BE DISCUSSED BELOW AND PROPOSED AGENDA

1. Status of Case Filings and Dismissals
2. Case Management Matters
3. Discovery Status
4. ADR Status

III. STATUS OF CASE FILINGS AND DISMISSALS

As of March 24, 2021, approximately 1,890⁶ cases are pending in this MDL, naming 107 defendants. A list of these defendants is attached as **Exhibit A**. To date, 1,716 personal injury cases and 170 government entity cases (including 130 school districts, 18 counties, 2 cities, and 19 tribes) have been filed in this MDL. 363 MDL plaintiffs have voluntarily dismissed their cases (including 350 personal injury plaintiffs and 5 class plaintiffs and 3 school districts); 131 cases have been dismissed without prejudice pursuant to CMO No. 8; and 33 other cases are subject to pending motions to dismiss without prejudice that have not yet been ruled upon. Furthermore, 96 case dismissals without prejudice have been converted to dismissals with prejudice pursuant to CMO No. 8.

There are 417 complaints pending in JCCP 5052, which is assigned to Judge Ann I. Jones of the Los Angeles Superior Court as the Coordination Trial Judge. There are 77 government entity cases, including 73 school districts and 338 personal injury cases brought on behalf of over 2,464 individual personal injury plaintiffs. There are 23 defendants named in those JCCP cases.

⁶ The numbers in this Statement reflect the Parties’ good faith estimates based on reasonably available information. The Parties will continue to work together to align their data and resolve any inconsistencies.

1 The Parties are also aware of 15 cases filed by State Attorneys General specifically:
2 California, Illinois, Hawai‘i, New York, North Carolina, Mississippi, Minnesota, Washington
3 D.C., Arizona, Pennsylvania, New Mexico, Massachusetts, Colorado, Alaska and Washington.
4 Plaintiffs’ Liaison Counsel continue their outreach to various State Attorneys General to discuss
5 cooperation with this MDL.

6 An update on matters of significance (including hearings, schedules, deadlines,
7 depositions, substantive orders, and trial dates) in Related Actions as defined by the Joint
8 Coordination Order (CMO 9, ECF No. 572 at 1, 3), is attached hereto as **Exhibit B**.

9 **IV. CASE MANAGEMENT MATTERS**

10 **A. Proposed Amended CMO 10-A**

11 The parties have reached agreement on a proposed amendment to CMO 10-A to address
12 the timing of production deposition transcripts from related cases. The proposed order is attached
13 as **Exhibit C**.

14 **B. Personal Injury Actions**

15 Subject to the Court’s approval, the parties agree to a modest extension to the deadline for
16 Plaintiffs to respond to the deferred pleading challenges, from April 13 to May 4, to ensure
17 sufficient time to address the myriad state law issues raised across multiple briefs exceeding 150
18 pages, as well as a similar and reasonable extension of time for Defendants to submit their reply.

19 **C. Appointment of a Deposition Special Master**

20 The parties have agreed in principle to seek appointment of a special master to resolve
21 disputes that arise during depositions and have been meeting and conferring over potential
22 candidates and the scope of the appointment. The parties will provide joint or competing
23 proposed Orders by March 31. If the parties have not reached an agreement on the special master
24 candidate proposal by that time, the parties will also propose a selection procedure for the Court’s
25 consideration. The parties welcome any suggestions the Court may have regarding prospective
26 candidates.
27
28

1 **D. Class Actions**

2 As addressed in the parties' pending motion to dismiss briefing and in light of
 3 Defendants' position concerning this Court's subject matter jurisdiction over certain class claims
 4 (ECF Nos. 1397, 1481, 1557), Plaintiffs have prepared individual, underlying complaints on
 5 behalf of fifty-seven named plaintiffs in the Second Amended Consolidated Class Action
 6 Complaint. Given the \$402.00 fee for opening civic cases (via direct filing in the MDL), Plaintiffs
 7 would incur more than \$22,000 in costs to effectuate the filing of the underlying complaints.
 8 Plaintiffs respectfully request that the Court waive the filing fees for the underlying complaints,
 9 and are prepared to submit a proposed order if appropriate. Alternatively, for class representatives
 10 who have also filed individual personal injury cases, Plaintiffs believe it would significantly
 11 reduce costs for the underlying complaints to be filed in the class representatives' individual
 12 personal injury dockets (rather than the primary MDL docket).

13 Defendants note that personal injury plaintiffs have paid the filing fees and are unsure
 14 why the class representatives should be different in this respect. However, Defendants believe
 15 this is an issue between Plaintiffs and the Court. Defendants do not take a position with respect to
 16 Plaintiffs' request and defer to the Court on this issue.

17 **V. DISCOVERY STATUS**

18 On March 23, 2021, the Parties participated in a discovery conference with Judge Corley.
 19 A copy of the March 22, 2021 Joint Discovery Status Report provided in advance of that
 20 conference is attached as **Exhibit D**. The parties will be prepared to update the Court regarding
 21 developments since that conference.

22 The MDL Plaintiffs are holding weekly calls with JCCP counsel regarding discovery
 23 coordination. Defendants appreciate and encourage coordination between the MDL and the
 24 JCCP, as detailed by the Joint Coordination Order (CMO No. 9, ECF No. 572) and the
 25 Deposition Protocol (CMO No. 10, ECF No. 573).

26 **VI. ADR STATUS**

27 Pursuant to Civil Local Rule 16-10(d), the Parties report that they continue to confer with
 28 Settlement Master Thomas J. Perrelli and cooperate with his recommendations.

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2 Dated: March 24, 2021

Respectfully submitted,

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